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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ROBERT BERMAN,

Petitioner,

v.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No.: 2:21-cv-01359-APG-BNW

**Order Granting  
Motion for Clarification and  
for Extension of Time for Reply**

[ECF No. 73]

In this habeas corpus action, the respondents filed their answer on May 16, 2023. ECF No. 66. Then, after a 60-day initial period, and extensions of time of 119 days and 15 days, Petitioner Robert Berman, *pro se*, was to file his reply by November 28, 2023. *See* ECF Nos. 8, 68, 70. Berman did not file a reply in the time allowed.

On December 4 and 13, 2023, Respondents filed notices of change of their counsel within the office of the Nevada Attorney General. ECF Nos. 71, 72.

On December 20, 2023, Berman filed a motion requesting clarification of Respondents' notices of change of counsel, asking for explanation of Respondents' "intentions" with respect to their changes of counsel, and requesting another 60 days to file his reply. ECF No. 73. On January 3, 2024, Respondents filed a notice stating that they do not oppose Berman's motion. ECF No. 74.

LSR 3-6 provides: "In [habeas corpus] cases in which the respondents are represented by one or more attorneys in the office of the Nevada Attorney General, substitutions of counsel from one attorney in the office of the Nevada Attorney General to another attorney in that office

1 need not be made by motion or stipulation, as is otherwise required by LR IA 11-6, but must be  
2 made by the filing of a notice of the substitution.” Respondents’ changes of counsel were  
3 properly made under that local rule. Respondents need not state their “intentions” with respect to  
4 their changes of counsel in habeas cases.

5 Berman requests an additional sixty days—apparently from the date of his motion—to  
6 file his reply to Respondents’ answer. Berman argues that Respondents’ counsel will need at  
7 least that amount of time to become familiar with the case, and that he should be allowed to use  
8 that time to file his reply. Berman’s argument is specious. Respondents have fully briefed the  
9 merits of Berman’s petition; their changes of counsel will cause no delay. Berman does not state  
10 any reason why he did not file his reply within the time he had to do so—which was well over  
11 six months. *See* LR IA 6-1 (a) (“A request [for extension of time] made after the expiration of  
12 the specified period will not be granted unless the movant or attorney demonstrates that the  
13 failure to file the motion before the deadline expired was the result of excusable neglect.”).  
14 Nevertheless, in the interests of justice—that is, to allow Berman to reply to Respondents’  
15 answer—and in view of Respondents’ notice that they do not oppose Berman’s motion, I will  
16 grant Berman’s motion and grant him more time for his reply. *This will be the last extension of*  
17 *this deadline.*

18 Finally, I note that the captions of Berman’s last two filings indicate that he has a new  
19 mailing address: 7236 Raincloud Dr., Las Vegas, Nevada, 89145. *See* ECF Nos. 69, 73. I will  
20 direct the Clerk of the Court to update the docket to reflect this change. And I call Berman’s  
21 attention to LR IA 3-1:

22 An attorney or pro se party must immediately file with the court written  
23 notification of any change of mailing address, email address, telephone number,  
or facsimile number. The notification must include proof of service on each  
opposing party or the party’s attorney. Failure to comply with this rule may result

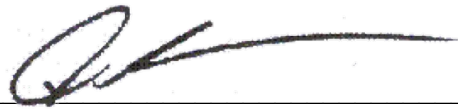
1 in the dismissal of the action, entry of default judgment, or other sanctions as  
2 deemed appropriate by the court.

3 LR IA 3-1. Berman must comply with that local rule going forward.

4 I THEREFORE ORDER that Petitioner's Motion for Clarification and for Extension  
5 of Time for Reply (ECF No. 73) is **GRANTED**. Petitioner will have until and including  
6 **February 20, 2024**, to file his reply to Respondents' answer.

7 I FURTHER ORDER that the Clerk of the Court is directed to update the docket to  
8 reflect Petitioner's new mailing address: 7236 Raincloud Dr., Las Vegas, Nevada, 89145.

9 Dated: January 9, 2024

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12 ANDREW P. GORDON  
13 UNITED STATES DISTRICT JUDGE  
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